

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Team # 6	CCRB Case #: 201401599	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/18/2014 8:00 PM	Location of Incident: In front of and inside of the 71st Precinct stationhouse	Precinct: 71	18 Mo. SOL 8/18/2015	EO SOL 8/18/2015	
Date/Time CV Reported Wed, 02/19/2014 9:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/19/2014 9:47 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			071 PCT
2. POM Phillip Rossomando	03097	954299	PBBS
3. POM Stephen D'Amico	31729	952636	PBBS
4. POM Elijah Boyle	19708	950096	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Erik Worobey	00000	932229	PBBS
2. POM Mario Altilio	08522	953633	PBBS
3. POM Weber Wesh	26679	954419	PBBS
4. SGT Larry Meyers	05284	939030	PBBS
5. POM Ismael Rivera	09052	951149	071 PCT
6. POM Paul Mallilo	13679	949246	071 PCT
7. POM Ryan Norwood	00421	949403	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Stephen D'Amico	Discourtesy: Inside of the 71st Precinct stationhouse, PO Stephen D'Amico spoke discourteously to § 87(2)(b)	
B.POM Stephen D'Amico	Abuse: Outside of the 71st Precinct stationhouse, PO Stephen D'Amico stopped § 87(2)(b)	
C.POM Elijah Boyle	Abuse: Outside of the 71st Precinct stationhouse, PO Elijah Boyle stopped § 87(2)(b)	
D.POM Phillip Rossomando	Abuse: Outside of the 71st Precinct stationhouse, PO Phillip Rossomando stopped § 87(2)(b)	
E.POM Stephen D'Amico	Discourtesy: Outside of the 71st Precinct stationhouse, PO Stephen D'Amico spoke discourteously to § 87(2)(b)	
F. An officer	Force: Outside of the 71st Precinct stationhouse, an officer used a chokehold against § 87(2)(b)	
G. An officer	Force: Outside of the 71st Precinct stationhouse, an officer used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Stephen D'Amico	Abuse: Inside of the 71st Precinct stationhouse, PO Stephen D'Amico strip-searched § 87(2)(b)	

Case Summary

On February 18, 2014, § 87(2)(b) filed this complaint with IAB via telephone on behalf of their son, § 87(2)(b). Neither witnessed the incident themselves. This complaint was not initially forwarded to the CCRB. The complete case file for IAB log #2014-6501, however, was received at the CCRB on April 28, 2014. On February 19, 2014, § 87(2)(b) filed a duplicate complaint with the CCRB directly via telephone. Later that day, § 87(2)(b) filed a second duplicate complaint with the CCRB, again via telephone.

At approximately 8:00 p.m. on February 18, 2014, § 87(2)(b) traveled to the 71st Precinct stationhouse in Brooklyn to complain about a parking summons. The following allegations resulted:

- **Allegation A: Discourtesy – Inside of the 71st Precinct stationhouse, PO Stephen D’Amico spoke discourteously towards § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation B: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Stephen D’Amico stopped § 87(2)(b)**
- **Allegation C: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Elijah Boyle stopped § 87(2)(b)**
- **Allegation D: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Phillip Rossomando stopped § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E: Discourtesy – Outside of the 71st Precinct stationhouse, PO Stephen D’Amico spoke discourteously towards § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation F: Force – Outside of the 71st Precinct stationhouse, an officer used a chokehold against § 87(2)(b)**
- **Allegation G: Force – Outside of the 71st Precinct stationhouse, an officer used physical force against § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation H: Abuse of Authority – Inside of the 71st Precinct stationhouse, PO Stephen D’Amico strip-searched § 87(2)(b)**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) at the time of the incident, is a 5'11", 160-pound black male with black hair and brown eyes. § 87(2)(b)

§ 87(2)(b) s Photographs

During his interview, § 87(2)(b) provided four color photographs of his injuries. He stated that he took the photographs himself on the night of the incident, while he was at § 87(2)(b), awaiting treatment. The photographs show § 87(2)(b) with abrasions on his nose, forehead, and right knee (Encl. 19A-D).

Statements to Medical Providers

At § 87(2)(b), § 87(2)(b) was transported from the 71st Precinct stationhouse to § 87(2)(b) by FDNY EMTs. He told the EMTs that he had been assaulted by the police, and that his face had struck the ground during his apprehension. At the hospital, § 87(2)(b) further stated that the police had choked him as well (Encl. 18A).

At § 87(2)(b) § 87(2)(b) was transported from his home at § 87(2)(b) to § 87(2)(b). He told his doctors that he had been assaulted § 87(2)(b) days earlier by officers from the 71st Precinct (Encl. 18B).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Notice of Claim

§ 87(2)(b) filed a notice of claim with the Comptroller's office on § 87(2)(b). § 87(2)(g) In his notice of claim, however, § 87(2)(b) stated that he was asked to retrieve his identification from his car before he left the stationhouse (Encl. 7I-L).

50-h Transcript

A 50-h hearing was held in regards to § 87(2)(b)'s lawsuit on § 87(2)(b). § 87(2)(g)

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

IAB Testimony

§ 87(2)(b) provided two separate telephone statements to Sgt. Scott Reiser of IAB Group 54 on February 18, 2014 and February 21, 2014. On February 27, 2014, § 87(2)(b) was interviewed by Det. Gregory Parker and Sgt. Patrick Romain, also of Group 54, at the offices of § 87(2)(b). § 87(2)(b)'s civil attorney, § 87(2)(b), § 87(2)(g). In his IAB testimony, however, § 87(2)(b) made no mention of his pants being pulled down (Encl. 7A-B).

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on March 11, 2014 (Encl. 7C-F). His civil attorney, § 87(2)(b) was present during the statement. § 87(2)(g). § 87(2)(b) answered several follow-up questions over the telephone on May 19, 2014 (Encl. 7G).

At approximately 7:30 p.m. on February 18, 2014, § 87(2)(b) was issued a parking summons in front of a Popeye's restaurant located at 1128 Eastern Parkway, in Brooklyn. The summons was issued by PO Mario Altilio. Also present at the time were PO Altilio's partners, Lt. Erik Worobey and PO Weber Wesh. All three officers were from Patrol Borough Brooklyn South. After receiving the summons, § 87(2)(b) decided to drive to the 71st Precinct stationhouse to complain about it.

When § 87(2)(b) arrived at the stationhouse, he parked his car along New York Avenue, just north of the main entrance. He then walked into the building. Immediately past the front door was a low gate, blocking access to the stationhouse's front desk. The gate was approximately seven feet from the front desk. Two uniformed officers stood behind the desk. § 87(2)(b) described these officers as black males, but the investigation identified them as Sgt. Larry Meyers (a white male) and PO Ismael Rivera (a Hispanic male) of the 71st Precinct. § 87(2)(b) further described two other uniformed officers, described as a 5'9" heavysset bald white male, and a 5'11" white male with brown hair. The investigation identified these officers, respectively, as PO Stephen D'Amico and PO Phillip Rossomando. It also determined that a third officer, PO Elijah Boyle, was also standing with PO D'Amico and PO Rossomando at the time. No other civilians or officers were present in the room at the time.

§ 87(2)(b) approached the front desk and told Sgt. Meyers and PO Rivera that he wished to file a complaint in regards to his summons. Neither of them responded. Instead, PO D'Amico asked Sgt. Meyers if he wanted him to deal with § 87(2)(b). Sgt. Meyers told him, "Yeah." PO D'Amico then turned towards § 87(2)(b). He held both of his hands up towards § 87(2)(b) and started walking towards him. As he advanced, PO D'Amico twice told § 87(2)(b) "Get the fuck out of the building." § 87(2)(b) stepped backwards and held his hand up towards PO D'Amico, telling him that he would leave the stationhouse on his own. He then turned and walked out of the front door. § 87(2)(b)'s demeanor was calm at the time, and he did not raise his voice towards the officers.

Once § 87(2)(b) left the building, however, a group of approximately ten uniformed officers followed him outside and formed a circle around him. The investigation was able to identify several of these officers, including PO D'Amico, PO Boyle, PO Rossomando, PO Altilio, PO Wesh, and Sgt. Meyers, as well as PO Paul Mallilo and PO Ryan Norwood. § 87(2)(b) also

described another officer, PO1, as being a heavyset 6'1" white male in his twenties with blond hair being present. The investigation was unable to identify PO1. § 87(2)(b) did not recall seeing any other civilians outside at the time. PO D'Amico told § 87(2)(b) "Go get your ID." § 87(2)(b) told PO D'Amico that he had already provided his identification to Lt. Worobey when he had been issued his summons. The officers then stepped closer to him, tightening their circle. Intimidated by this gesture, § 87(2)(b) told the officers that he would comply with their order, but that he had to retrieve his identification from his car. The officers then stepped aside to allow § 87(2)(b) access to his vehicle.

§ 87(2)(b) walked up to his car and entered the driver's seat. He left the car door open when he entered. The officers stood around his vehicle, with PO D'Amico standing directly in front of the driver's-side door. At that time, § 87(2)(b) noticed that Lt. Worobey was standing behind PO D'Amico. He had not noticed Lt. Worobey outside of the stationhouse before then. PO D'Amico told § 87(2)(b) "Get the fucking ID right now!" § 87(2)(b) made no response to this. At the time, § 87(2)(b)'s identification was in the vehicle's center console. § 87(2)(b) turned his upper body towards the center console. Before he was able to reach for it, however, PO D'Amico reached into the car and pulled him out of his vehicle. § 87(2)(b) had been inside the vehicle for only a few seconds, and did not have the chance to reach for the center console, or any other area in the car.

Once out of the car, several officers, including PO D'Amico, PO Rossomando, Lt. Worobey and PO1 grabbed § 87(2)(b) and pushed him chest-first against the side of the vehicle. Due to the large number of officers grabbing him, § 87(2)(b) was unable to tell which officers took which specific actions at that time. The officers pulled § 87(2)(b)'s arms to his side, holding them spread-eagle. The officers repeatedly told § 87(2)(b) to place his arms behind his back, but he was unable to do so, as they were holding his arms out. After holding him for several seconds, Lt. Worobey told the officers, "Take him down." The officers then pulled § 87(2)(b) into the middle of the street. One of the officers kicked § 87(2)(b) in the back of his leg, causing him to fall, first to his knees, and then onto his chest.

On the ground, the gathered officers pinned § 87(2)(b)'s limbs down. PO1 then got on top of § 87(2)(b)'s body and wrapped one of his forearms around § 87(2)(b)'s neck, which obstructed his breathing. He also ground § 87(2)(b)'s face against the ground. § 87(2)(b)'s voice coming out in a rasp, told the officers that he could not breathe. An unidentified officer replied, "If you can say you can't breathe, you can breathe." While PO1 held § 87(2)(b) by the neck, the other officers pulled his arms behind his back and placed him in handcuffs. PO1 then released § 87(2)(b) from the chokehold, at which time § 87(2)(b) was able to clearly see that he had been the one who was behind him and had the arm around his neck. The struggle lasted approximately two to three minutes. § 87(2)(b) denied offering any kind of resistance, stating that the officers' holds had kept him completely immobilized throughout. As a result of the struggle, § 87(2)(b) suffered abrasions to his face and knees.

After he was restrained, PO D'Amico picked § 87(2)(b) up by himself, cradling § 87(2)(b) in his arms. He then carried him back into the stationhouse. He was taken directly to the holding cells in the rear of the stationhouse. At the time, there were two males, identified by the investigation as § 87(2)(b) and § 87(2)(b) in the holding cells. Outside the cell, PO D'Amico put § 87(2)(b) down. Two officers, whom § 87(2)(b) could not describe, then held his arms out against the wall while PO D'Amico pulled his pants down, revealing his underwear. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

was in full view of both § 87(2)(b) and § 87(2)(b) at the time. § 87(2)(b) upset at his disrespectful treatment, began shouting profanities at PO D'Amico. He was then placed in the holding cell with the other prisoners.

Approximately five to ten minutes later, an ambulance arrived at the stationhouse. The EMTs transported him to § 87(2)(b). While waiting for his examination, § 87(2)(b) took several photographs of his injuries. An X-ray revealed that § 87(2)(b) did not suffer any fractures. His wounds were cleaned, and he was given a prescription for painkillers. Two uniformed officers escorted § 87(2)(b) to the hospital, and stayed with him while he was being treated. § 87(2)(b) stated that he had not interacted with these officers earlier. The investigation, however, identified them as PO Attilio and PO Wesh. § 87(2)(b) was told at the hospital that he was not under arrest. Later that evening, Lt. Worobey came to the hospital and provided both his name and the CCRB's telephone number to § 87(2)(b). He confirmed that § 87(2)(b) was not being arrested.

§ 87(2)(b) was subsequently released into his own custody at § 87(2)(b). He was not ultimately arrested or issued a summons as a result of the incident at the stationhouse. On § 87(2)(b) § 87(2)(b) went to § 87(2)(b), complaining of light-headedness. He did not receive any significant treatment there.

Attempts to Schedule § 87(2)(b) for a Photo Viewing

When § 87(2)(b) answered follow-up questions on May 19, 2014, he asked that all further communications go through his attorney, § 87(2)(b). On September 17, 2014 and September 22, 2014, calls were placed to § 87(2)(b) in order to discuss whether § 87(2)(b) would be available for a photo viewing session. Messages were left on each call. When no response was received, a call was made directly to § 87(2)(b) on September 24, 2014. He scheduled a photo viewing session for September 26, 2014. § 87(2)(b) failed to appear for this appointment. On September 29, 2014, a photo viewing letter was sent to § 87(2)(b). On October 1, 2014, a second call was made to § 87(2)(b) and another photo viewing session was scheduled for October 3, 2014. § 87(2)(b) failed to appear for this appointment as well. He did not call ahead to cancel or reschedule for either appointment. An October 14, 2014 search of the Department of Correction's online inmate database showed that § 87(2)(b) is not currently incarcerated (Encl. 7BW).

Attempts to Contact Civilians

§ 87(2)(b) stated that there were two male prisoners in the holding cells when his pants were pulled down, and that he was in full view of both of them at the time. Arrest records identified these two individuals as § 87(2)(b) and § 87(2)(b). Their addresses were listed on their arrest reports, and a March 18, 2014 Lexis Nexis search returned telephone numbers for both of them. Between March 18, 2014 and April 2, 2014, five telephone calls were made to each number. § 87(2)(b)'s number had no voicemail service, so messages could not be left for him. Voicemail messages were left on the first, fourth and fifth calls to § 87(2)(b) but could not be left on the second and third calls because the voicemail box was full. Please-call letters were mailed to § 87(2)(b) and § 87(2)(b) on March 18, 2014 and April 1, 2014. None of these letters were returned to the CCRB by the US Postal Service. To date, neither § 87(2)(b) nor § 87(2)(b) has responded to these contact attempts.

Fieldwork was conducted at the incident location on February 24, 2014. The undersigned investigator visited several adjacent locations, including a Mobil gas station at 145 Empire Boulevard, an apartment building at 436 Empire Boulevard, and the Gladstone Atwell Middle School at 360 Empire Boulevard. No eyewitnesses or video was found.

NYPD Statement(s):

Subject Officer: PO ELIJAH BOYLE

- *PO Boyle, § 87(2)(b) old at the time of the incident, is a 5'9", 250-pound Hispanic male with brown hair and hazel eyes. He does not wear glasses.*
- *PO Boyle worked from 2:30 p.m. on February 18, 2014 until 12:05 a.m. on February 19, 2014. He was assigned to sectors F and J with PO Stephen D'Amico. PO Boyle was in uniform, and assigned to marked RMP #3453.*

Memo Book

At 7:49 p.m. on February 18, 2014, PO Boyle returned from patrol to perform administrative duty at the 71st Precinct stationhouse. While there, a male entered the stationhouse to dispute a parking summons. When instructed on how to dispose of his summons, the male became loud. The desk officer told the male to leave the premises. Once the male exited the building, he removed his jacket and threatened to fight several officers, stating, "Why don't you fucking fight me? Take that badge off and fight me." The male was then informed that he was going to receive a summons for disorderly conduct, and was instructed to produce identification. He replied that his identification was in his car. When the male got into his car to retrieve the identification, however, he began cursing at the officers. The male was subsequently removed from the vehicle, taken to the ground, and placed in handcuffs. He resisted the officers by flailing his arms. The male was taken into the stationhouse's holding cells, where he was examined by EMS. Lt. Worobey later decided that the male would be treated as an emotionally disturbed person (EDP) (Encl. 8A-E).

CCRB Testimony

PO Boyle was interviewed at the CCRB on July 18, 2014 (Encl. 8F-I). At approximately 7:49 p.m. on February 18, 2014, PO Boyle and his partner, PO D'Amico, returned to the 71st Precinct stationhouse from patrol in order to perform administrative duties. Several minutes after they returned to the stationhouse, PO Boyle and PO D'Amico were standing near the stationhouse's front desk, by the main entrance. Sgt. Meyers, the desk officer, and PO Rivera, were working behind the desk. PO Rossomando, also performing administrative duties, was standing next to the desk near PO Boyle. PO Boyle did not recall if there were any other officers or any civilians in the vicinity of the desk at the time.

At approximately 8:00 p.m., a male, identified by the investigation as § 87(2)(b) entered the stationhouse and approached PO Rivera at the front desk. § 87(2)(b) told PO Rivera that he had just received a parking summons, and wanted it to be dismissed. § 87(2)(b) appeared visibly upset, but was speaking in a normal tone of voice. Before PO Rivera had a chance to respond to § 87(2)(b) PO Boyle stepped forward and offered to handle the matter. He and § 87(2)(b) stepped several feet away from the desk and spoke to each other one-on-one. No other officers were involved in this conversation.

§ 87(2)(b) explained that he had received the summons earlier in the evening for parking in a no-standing zone. PO Boyle himself had not been involved in the issuance of this summons. PO Boyle told § 87(2)(b) that the police did not have the power to dismiss the summons once it was issued, and that if he wanted to dispute it, he would have to do so in court. § 87(2)(b) was not satisfied with this answer, and asked PO Boyle to speak with a supervisor. As § 87(2)(b) spoke, his voice became progressively louder. PO Boyle walked back to the desk and explained § 87(2)(b)'s complaint to Sgt. Meyers. While PO Boyle spoke, however, § 87(2)(b) began loudly shouting. PO Boyle did not recall specific statements that § 87(2)(b) made, but recalled that his comments were vulgar and disrespectful. In response to § 87(2)(b)'s disruptive behavior, Sgt. Meyers told PO Boyle to instruct § 87(2)(b) to leave the stationhouse.

PO Boyle, now accompanied by PO D'Amico and PO Rossomando, walked back over to § 87(2)(b). When PO Boyle told § 87(2)(b) to leave, he initially refused to comply, and continued shouting loudly. All three officers repeated PO Boyle's instruction several times. As they spoke, the officers spoke in increasingly harsh tones. He did not recall if he or any of the other officers told § 87(2)(b) "Get the fuck out of the building," or if they used any other profanity towards him at any point. All three officers additionally advanced slowly towards § 87(2)(b) as they spoke. In response, § 87(2)(b) backed away from the officers, moving towards the entrance. While none of the officers made any physical contact with § 87(2)(b) at that time, they were eventually able to steer him through the door and out of the stationhouse.

PO Boyle, PO D'Amico and PO Rossomando all followed § 87(2)(b) outside in order to make sure that he left the area without causing any further disturbances. Two unidentified civilians were speaking to each other near the entrance. No other officers were outside at the time. After leaving the front door, § 87(2)(b) walked about five feet before stopping and turning back towards PO Boyle. § 87(2)(b) then removed his jacket and threw it to the ground. He shouted to the officers, "Why don't you fucking fight me? Take that badge off and fight me." This exclamation drew the attention of the two unidentified civilians, who ceased their conversation and started watching § 87(2)(b). These civilians did not directly interact with § 87(2)(b) during the incident.

PO Boyle determined that § 87(2)(b)'s disruptive and belligerent behavior, both inside and outside of the stationhouse, constituted disorderly conduct, and therefore resolved to issue him a summons. He did not suspect § 87(2)(b) of any other criminal activities beyond disorderly conduct. Once § 87(2)(b) challenged the officers to fight, PO Boyle asked him for his identification in order to write out the summons. § 87(2)(b) replied that his identification was in his car, which was parked three to four car lengths up the street, to the right of the stationhouse entrance. PO Boyle told § 87(2)(b) to go retrieve it. PO Boyle, PO D'Amico and PO Rossomando all followed § 87(2)(b) as he walked over to his car.

§ 87(2)(b) got into the driver's seat of his car, leaving the door behind him open. He then retrieved several papers from inside the vehicle and started rifling through them. PO Boyle did not recall where § 87(2)(b) had retrieved the papers from. § 87(2)(b) continued shouting and cursing at the officers while in the driver's seat. PO Boyle did not recall him making any other movements besides going through the papers. He kept his body faced outwards in the direction of the officers for the entire time. Later, an unidentified officer would inform PO Boyle that he saw a baseball bat in the back seat of § 87(2)(b)'s vehicle. PO Boyle did not see this bat himself, and did not know if a bat was retrieved from the car at any point. PO Boyle did not recall

if the unidentified officer mentioned the bat while § 87(2)(b) was still in the vehicle. As the officers waited for § 87(2)(b) to retrieve his identification, PO D'Amico told § 87(2)(b) "Get the fucking ID right now." Beyond this statement, PO Boyle did not recall any officers using profanity during the incident.

Due to § 87(2)(b)'s shouting, several officers exited the stationhouse to see what was happening. Of these officers, PO Boyle only specifically recalled Sgt. Meyers and PO Wesh. He did not see Lt. Worobey among these officers. After Sgt. Meyers approached the car, he told PO Boyle that since § 87(2)(b) was apparently unable to provide identification, he would be placed under arrest rather than issued a summons. Once this decision was made, PO Boyle ordered § 87(2)(b) twice to step out of the car. § 87(2)(b) angrily refused both commands. PO Boyle then reached into the car and grabbed § 87(2)(b) by the arm. § 87(2)(b) reacted by jerking his arm away, breaking PO Boyle's grip. PO Boyle and PO Rossomando reached back into the car, grabbed § 87(2)(b) again by his arms, and pulled him out to his feet. They then placed him face-first against the side of the car.

§ 87(2)(b) did not resist being removed from the vehicle. Once against the car, however, he crossed both of his arms against his chest and held them there tightly, thus preventing the officers from bringing his arms back for handcuffing. After PO Boyle and PO Rossomando made several unsuccessful attempts to pry his arms loose, PO Boyle decided to take § 87(2)(b) to the ground in order to better control him. PO Boyle and PO Rossomando pulled downwards on § 87(2)(b)'s arms, hoping to drag him to the ground. § 87(2)(b) however, was able to stay on his feet by staggering forwards. As § 87(2)(b) moved forward, however, PO Mallilo stepped in front of him to block his path. PO Boyle had not noticed PO Mallilo's presence until that moment. PO Mallilo pushed § 87(2)(b) down by his back, forcing him onto the ground face-down.

Initially, PO Boyle stated that § 87(2)(b) offered no resistance once he was on the ground. When asked if he was making any movements while on the ground, however, PO Boyle stated that § 87(2)(b) attempted to keep the officers from controlling his arms. PO Boyle did not recall the specific actions § 87(2)(b) took towards this end. Once § 87(2)(b) was on the ground, PO Mallilo wrapped his arms around § 87(2)(b)'s torso to hold him still. At least one of the other gathered officers held § 87(2)(b)'s legs down to prevent him from kicking anybody. PO Boyle and PO Rossomando then pulled § 87(2)(b)'s arms behind his back. PO Boyle did not see any officer punch or kick § 87(2)(b) during the struggle, or grind § 87(2)(b)'s face into the ground. At one point during the struggle, PO Boyle heard § 87(2)(b) state, "I can't breathe." PO Boyle, however, denied both placing § 87(2)(b) in a chokehold or making any kind of contact with § 87(2)(b)'s neck. He did not see any other officer take these actions towards § 87(2)(b) either.

PO Boyle and the other officers were able to get § 87(2)(b) under control after struggling for approximately five minutes. After being placed in handcuffs, § 87(2)(b) was lifted to his feet. During the struggle, he had sustained several abrasions to his face. None of the officers were injured. § 87(2)(b) continued struggling against the officers even after he was handcuffed. When PO Boyle, PO D'Amico and PO Rossomando attempted to walk him into the stationhouse, § 87(2)(b) started kicking at their legs. He then went limp, forcing the three officers to carry him into the stationhouse.

PO Boyle led § 87(2)(b) into the holding cell area. There were already two prisoners, identified by the investigation as § 87(2)(b) and § 87(2)(b) in the cells. Since § 87(2)(b) had been kicking, PO Boyle removed § 87(2)(b)'s shoes and placed him in leg shackles to further restrain him. Beyond the removal of § 87(2)(b)'s shoes, no other articles of clothing were removed. PO Boyle did not see any officer remove § 87(2)(b)'s pants or make contact with his groin. He did not mention any other searches being conducted of § 87(2)(b).

PO Boyle left the holding cell area after placing § 87(2)(b) inside. He then spoke to Lt. Worobey, who informed him that § 87(2)(b) would be treated as an EDP rather than as a prisoner. PO Boyle had assumed until that point that § 87(2)(b) was going to be handled as a normal arrest, and had not heard any prior discussions about § 87(2)(b)'s emotional state. Lt. Worobey instructed PO Boyle and the other officers involved in the arrest not to speak to § 87(2)(b) again, as they might agitate him further. PO Boyle had no further interactions with § 87(2)(b). While he later learned that § 87(2)(b) was examined by EMS, he did not know what, if any, treatment § 87(2)(b) received.

Subject Officer: PO STEPHEN D'AMICO

- *PO D'Amico, § 87(2)(b) old at the time of the incident, is a 5'11", 240-pound white male with brown hair and brown eyes. He does not wear glasses.*
- *On February 18, 2014, PO D'Amico worked the same tour and assignment as PO Elijah Boyle.*

Memo Book

PO D'Amico's memo book entry was consistent with PO Boyle's (Encl. 9A-D).

CCRB Testimony

PO D'Amico was interviewed at the CCRB on September 17, 2014 (Encl. 9E-G). § 87(2)(g)

PO D'Amico stated that § 87(2)(b) only spoke to Sgt. Meyers when he first entered the stationhouse. He also stated that § 87(2)(b) was acting in a loud and disruptive fashion while complaining about his summons. PO D'Amico only approached § 87(2)(b) after Sgt. Meyers had ordered him to leave the stationhouse. He denied that he or any other officer told § 87(2)(b) "Get the fuck out of the building."

PO D'Amico confirmed that he followed § 87(2)(b) out of the stationhouse with PO Boyle. The investigation further determined that PO Rossomando was with them at the time. After § 87(2)(b) demanded to fight the gathered officers, PO Boyle told § 87(2)(b) that he was going to be issued a summons for disorderly conduct, and instructed § 87(2)(b) to retrieve his identification. PO D'Amico denied telling § 87(2)(b) or hearing any officer tell § 87(2)(b) "Get the fucking ID right now." He denied hearing any officer use profanity at any point during the incident.

While PO D'Amico, PO Boyle and PO Rossomando waited for § 87(2)(b) to retrieve his identification from his vehicle, several other officers gathered to see what was happening. PO D'Amico recalled seeing PO Mallilo, PO Altilio, PO Wesh and PO Rivera among the group, but did not recall seeing Lt. Worobey or Sgt. Meyers. While in the vehicle, § 87(2)(b) reached into

several areas of the vehicle, including the center console, the glove compartment, and the front and back seats. He continued shouting as he searched.

Eventually, PO Boyle informed § 87(2)(b) that if he could not provide identification, then he would be taken into the stationhouse. § 87(2)(b) continued shouting at the officers. PO Boyle then forcibly removed § 87(2)(b) from the vehicle. PO D'Amico did not recall how, exactly, PO Boyle took § 87(2)(b) out of the car.

§ 87(2)(b) continued shouting and flailing his arms once he was removed from the car. § 87(2)(b) was forcibly taken to the ground by the gathered officers, but PO D'Amico did not recall how, specifically, they brought him down. Once on the ground, § 87(2)(b) was positioned on his front, where several officers tried to gain control of his arms. While PO D'Amico stated that § 87(2)(b) refused to provide his arms to the officers at that time, he did not recall what specific movements § 87(2)(b) made at that time. PO D'Amico did not see any officers punch or kick § 87(2)(b) or grind his face against the ground. He did not see any officers place § 87(2)(b) in a chokehold, or otherwise make contact with his neck. PO D'Amico did not see any officers use any force against § 87(2)(b) beyond bringing him to the ground and grabbing his arms.

§ 87(2)(b) was handcuffed after about a minute. Several officers stood around him immediately afterwards. Shortly after § 87(2)(b) was handcuffed, he shouted out that he could not breathe. PO D'Amico reiterated that he did not see any officers choking or making contact with § 87(2)(b)'s neck at that time. He did not see any officers pushing down on § 87(2)(b) or otherwise using their weight against him at that time either. As soon as § 87(2)(b) made this complaint, the officers lifted him up to his feet. PO D'Amico noted that § 87(2)(b) suffered several cuts to his forehead during the struggle, but did not specify how § 87(2)(b) sustained them.

§ 87(2)(b) was carried into the stationhouse's holding cell area. As is standard procedure for all prisoners, § 87(2)(b) was frisked before being placed in the cells. PO D'Amico did not recall § 87(2)(b) being searched at any point. He did not recall who conducted the frisk, but stated that nothing was found on § 87(2)(b). He did not recall seeing § 87(2)(b)'s pants or any other articles of clothing being removed. He did not recall seeing any officer touch § 87(2)(b)'s groin at any time.

When informed by Lt. Worobey that § 87(2)(b) would be treated as an EDP rather than as a prisoner, PO D'Amico noted that § 87(2)(b)'s seemingly irrational anger over a simple parking summons indicated that he likely was emotionally disturbed at the time of the incident. PO D'Amico was not present when § 87(2)(b) was treated by EMS or hospitalized.

Subject Officer: PO PHILLIP ROSSOMANDO

- *PO Rossomando, § 87(2)(b) old at the time of the incident, is a 6', 240-pound white male with brown hair and hazel eyes. He does not wear glasses.*
- *PO Rossomando worked from 4:00 p.m. on February 18, 2014 until 12:35 a.m. on February 19, 2014. He was initially assigned to sectors E and F with PO Ismael Rivera, but at 7:30 p.m., he was reassigned to administrative duty at the 71st Precinct stationhouse. PO Rossomando was in uniform.*

Memo Book

PO Rossomando's memo book entry was generally consistent with PO Boyle's. He additionally noted that outside of the stationhouse, § 87(2)(b) told the officers, "Suck my dick" (Encl. 10A-C).

CCRB Testimony

PO Rossomando was interviewed at the CCRB on June 30, 2014 (Encl. 10D-G). § 87(2)(g)

When § 87(2)(b) first entered the stationhouse to complain about his parking summons, PO Boyle spoke to him one-on-one. Once Sgt. Meyers ordered him to leave the stationhouse, however, PO Rossomando approached § 87(2)(b) to reiterate the sergeant's commands. He did not hear any officer tell § 87(2)(b) "Get the fuck out of the building," or otherwise use profanity against him inside of the stationhouse.

PO Rossomando, PO Boyle and PO D'Amico followed § 87(2)(b) out of the stationhouse. There, § 87(2)(b) demanded that the officers fight him. PO Boyle then asked § 87(2)(b) for his identification. PO Rossomando did not know why PO Boyle asked for § 87(2)(b)'s identification, but assumed that PO Boyle intended to arrest § 87(2)(b) or place him in protective custody. PO Rossomando did not hear any officer tell § 87(2)(b) "Get the fucking ID right now," or otherwise use profanity against him. § 87(2)(b) continued acting in a belligerent manner when he entered his car. § 87(2)(b) produced his driver's license from his center console, but refused to hand it over to the officers. Several officers gathered around the car at this time, including Sgt. Meyers, PO Altilio and PO Wesh.

When § 87(2)(b) refused to provide his identification, PO Boyle told § 87(2)(b) to exit the vehicle. When § 87(2)(b) refused this command as well, Sgt. Meyers instructed PO Boyle to take him out forcibly. PO Boyle and PO Rossomando then reached into the car and pulled § 87(2)(b) out onto his feet, by pulling § 87(2)(b)'s arms. § 87(2)(b) began flailing his arms once removed, and pushed both officers away. PO Rossomando and PO Boyle attempted to push § 87(2)(b) against the side of the car in order to get him under control. § 87(2)(b) however, was able to push off of the side of the car and move into the middle of the street. PO D'Amico then grabbed § 87(2)(b) around the waist to prevent him from moving any further. While § 87(2)(b) continued cursing, all three officers told § 87(2)(b) to stop resisting.

The officers attempted to pull § 87(2)(b) to the ground to get him under control. While they tried to pull him down, however, § 87(2)(b) lost his balance and fell to the ground face-first on his own. Initially, PO Rossomando stated that he, PO Boyle and PO D'Amico fell as well. Later, however, he stated that he only specifically recalled himself falling. Once on the ground, § 87(2)(b) resisted by twisting his body and pulling his arms away from the three officers. The officers overcame this resistance by pulling at his arms. After about three minutes, the officers were able to handcuff § 87(2)(b). PO Rossomando did not recall any additional officers assisting them in this struggle.

PO Rossomando denied seeing any officer punch or kick § 87(2)(b) or grind his face against the ground. No officer placed § 87(2)(b) in a chokehold, or otherwise made contact with § 87(2)(b)'s neck. PO Rossomando did not hear either § 87(2)(b) complain of having difficulty breathing, or any officer tell § 87(2)(b) "If you can say you can't breathe, you can breathe." When § 87(2)(b) fell to the ground, he suffered several abrasions on his forehead.

After his arrest, § 87(2)(b) continued resisting the officers, forcing them to carry him into the stationhouse. Inside, Lt. Worobey instructed the officers to place § 87(2)(b) in the holding cells. PO Rossomando had not seen Lt. Worobey before that point. PO Rossomando did not go into the holding cells with § 87(2)(b) and did not see what happened to § 87(2)(b) in the holding cell area. He was not aware of an officer searching § 87(2)(b) or removing any clothing from him.

Lt. Worobey also informed PO Rossomando that § 87(2)(b) would be handled as an EDP, rather than as a prisoner. § 87(2)(b) was subsequently examined by EMS and removed to a hospital. PO Rossomando, however, had no further interactions with § 87(2)(b) after bringing him into the stationhouse.

Witness Officer: SGT. LARRY MEYERS

- *Sgt. Meyers, § 87(2)(b) old at the time of the incident, is a 5'11", 165-pound white male with black hair and brown eyes. He does not wear glasses.*
- *On February 18, 2014, Sgt. Meyers worked from 2:30 p.m. until 11:47 p.m. He was assigned as the desk officer for the 71st Precinct. He was in uniform, and worked inside the stationhouse.*

Memo Book

At 8:00 p.m. on February 18, 2014, § 87(2)(b) entered the 71st Precinct stationhouse to complain about a parking summons. When he was instructed on how to dispose of the summons, § 87(2)(b) became upset and started shouting profanities. Sgt. Meyers ordered § 87(2)(b) to leave the stationhouse. § 87(2)(b) continued using profanity as he left. PO Boyle, PO D'Amico and PO Rossomando all followed § 87(2)(b) out of the stationhouse. Sgt. Meyers initially remained in the stationhouse, but heard shouting outside. When he went outside to investigate the noise, he observed § 87(2)(b) acting in a deranged and disturbed manner, shouting, "You're a nigger," and, "I will fight you." § 87(2)(b) refused multiple requests for his identification. He was then removed from his car and taken into protective custody. Officers took § 87(2)(b) to the ground, causing a cut to his forehead. § 87(2)(b) refused to show his hands while he was on the ground, leading officers to use unspecified force to restrain him. Once § 87(2)(b) was handcuffed, he kicked and the officers and told them, "I will punch your face." EMS was called, and § 87(2)(b) was placed in an isolated holding cell. At 8:08 p.m., EMS arrived at the stationhouse. Lt. Erik Worobey was informed of the situation. At 8:50 p.m., PO Wesh and PO Altilio escorted § 87(2)(b) to § 87(2)(b) (Encl. 11A-D).

CCRB Testimony

Sgt. Meyers was interviewed at the CCRB on June 19, 2014 (Encl. 11E-H). § 87(2)(g)

Sgt. Meyers did not recall hearing any officer tell § 87(2)(b) “Get the fuck out of the building,” or otherwise use profanity while inside of the stationhouse. After PO Boyle, PO D’Amico and PO Rossomando followed § 87(2)(b) out of the stationhouse, Sgt. Meyers was still able to hear § 87(2)(b) shouting from outside. Sgt. Meyers could not hear what specific statements § 87(2)(b) was making. The shouting continued for two minutes before Sgt. Meyers, concerned that § 87(2)(b) might pose a threat to the three officers, went outside to investigate. When Sgt. Meyers went outside, several uniformed officers from inside the stationhouse followed him to see what was happening. The investigation identified four of these officers as PO Altilio, PO Wesh, PO Mallilo and PO Norwood.

Outside, Sgt. Meyers saw that § 87(2)(b) was sitting in the front seat of a car parked on New York Avenue, approximately fifty feet from the front entrance. The driver’s-seat door was open, and PO Boyle, PO D’Amico and PO Rossomando were all standing in front of it. § 87(2)(b) was still gesturing wildly. He was shouting racial slurs, such as “nigger,” and threats, such as, “I’ll punch you,” and, “I’ll kill you.” He was also shuffling his legs inside the vehicle. Sgt. Meyers did not recall seeing § 87(2)(b) reach for any objects inside of the vehicle. One of the three officers, whom Sgt. Meyers did not recall, asked § 87(2)(b) for his identification several times. § 87(2)(b) did not reply to these requests. Sgt. Meyers did not know why the officer was asking for § 87(2)(b)’s identification. He did not recall hearing any officer tell § 87(2)(b) “Give me the fucking ID right now.” He did not recall hearing any officer use profanity during the incident.

Based upon § 87(2)(b)’s seemingly irrational aggression throughout the encounter, Sgt. Meyers suspected that § 87(2)(b) might be an EDP. As such, Sgt. Meyers decided that § 87(2)(b) needed to be taken into protective custody in order to both prevent him from harming himself or others, and to obtain proper medical treatment for him. Though he also felt that § 87(2)(b)’s behavior likely constituted disorderly conduct or menacing, he determined that § 87(2)(b)’s issues would better be resolved through psychiatric care rather than arrest. At no point did Sgt. Meyers consider § 87(2)(b) to be under arrest.

Once Sgt. Meyers made this determination, he instructed PO Boyle, PO D’Amico and PO Rossomando to remove § 87(2)(b) from his vehicle. Either Sgt. Meyers or one of the three officers ordered § 87(2)(b) to get out of his car approximately five times. When § 87(2)(b) ignored these commands, several of the gathered officers reached inside and pulled § 87(2)(b) out of the car onto his feet. Sgt. Meyers did not recall which specific officers pulled § 87(2)(b) out, and did not recall if he aided in this action. § 87(2)(b) continued shouting and flailing his arms once out of the vehicle. Concerned that § 87(2)(b) might strike a nearby officer, Sgt. Meyers instructed them to take § 87(2)(b) to the ground. Sgt. Meyers did not recall how, specifically, the gathered officers brought § 87(2)(b) to the ground.

§ 87(2)(b) landed on one of his sides. He continued shouting while on the ground, but rather than flailing his arms, he held them stiff against his chest. Sgt. Meyers, PO Boyle, PO D’Amico and PO Rossomando all reached down and pulled at § 87(2)(b)’s arms in order to bring them behind his back for handcuffing. No officer punched or kicked § 87(2)(b). No officer placed their arm around § 87(2)(b)’s neck in a chokehold, or made any kind of contact with his neck. Sgt. Meyers did not recall hearing § 87(2)(b) complaining of having difficulty breathing, or any officer telling § 87(2)(b) “If you can say you can’t breathe, you can breathe.”

After a short struggle, the officers managed to restrain § 87(2)(b) and bring him to his feet. Once up, Sgt. Meyers noticed that he had a cut on his forehead. He did not see how § 87(2)(b) sustained this injury, but assumed that it was from when he was taken to the ground. § 87(2)(b) continued shouting profanities and threats to the officers after he was handcuffed.

Once § 87(2)(b) was taken inside, Sgt. Meyers returned to the front desk and resumed his administrative duties. PO Boyle, PO D'Amico and PO Rossomando escorted § 87(2)(b) back into the holding cells. Sgt. Meyers did not see what, if any, actions these officers took towards § 87(2)(b) while in the holding cell area, though he was later told that he was isolated in a separate cell. Sgt. Meyers did not see any officer pull down § 87(2)(b)'s pants, expose his underwear, or otherwise remove any articles of clothing. While Sgt. Meyers stated that it would have been standard procedure to search any individuals being taken into police custody, he did not specifically see any such search himself.

Once § 87(2)(b) was placed in the holding cell, Sgt. Meyers began preparing an entry in the command log to document the incident. He initially placed an arrest stamp in the log, believing that while § 87(2)(b) was not technically under arrest, it was important to record his personal information nonetheless. After placing the stamp, however, he instead wrote a brief summary of the incident underneath. He then crossed out the stamp.

After § 87(2)(b) was lodged in the holding cells, Lt. Worobey and Captain Thomas Burke approached Sgt. Meyers to find out what had happened. Neither supervisor had been involved with the incident before that point. After hearing Sgt. Meyers' account, Lt. Worobey went into the holding cell area to speak to § 87(2)(b). Captain Burke did not interact with § 87(2)(b) at any point. EMS was subsequently called for § 87(2)(b) both for his injuries and due to his status as an EDP. The ambulance arrived within minutes. § 87(2)(b) was then transported to § 87(2)(b). Sgt. Meyers did not travel with him, and did not know what treatment he might have received there.

Subject Officer: PO MARIO ALTILIO

- *PO Altilio, § 87(2)(b) old at the time of the incident, is a 5'10", 160-pound white male with brown hair and brown eyes. He does not wear glasses.*
- *On February 18, 2014, PO Altilio worked from 3:00 p.m. until 11:35 p.m. He was assigned as the operator for Lt. Erik Worobey. He also worked with PO Weber Wesh. PO Altilio was in uniform, and assigned to a marked van, RMP #8870.*

Memo Book

At 7:30 p.m. on February 18, 2014, PO Altilio issued a parking summons to a vehicle parked in a no-standing zone at 1128 Eastern Parkway. At 8:00 p.m., PO Altilio traveled to the 71st Precinct stationhouse. At 8:05 p.m., PO Altilio heard a commotion outside of the stationhouse. When he went outside to investigate, he saw several officers asking the driver that he had issued the parking summons to earlier to leave the stationhouse. The driver was acting in an aggressive and disorderly fashion, and wanted to fight the officers. PO Altilio suspected that the driver might have been an EDP. The male was placed in handcuffs to ensure officer safety. EMS was then called to examine him. At 8:30 p.m., the driver was examined by EMS. LT. Worobey decided that the driver would be treated as an EDP. At 8:45 p.m., the driver was taken to § 87(2)(b). At 9:00 p.m., PO Altilio traveled to the hospital to return the driver's possessions to him (Encl. 12A-C).

Summons § 87(2)(b)

At 7:30 p.m. on February 18, 2014, PO Altilio issued a parking summons for a gray sedan, license plate § 87(2)(b), for parking in a no-standing zone in front of 1128 Eastern Parkway (Encl. 12D).

CCRB Testimony

PO Altilio was interviewed at the CCRB on August 11, 2014 (Encl. 12E-G). § 87(2)(g)

At approximately 7:30 p.m. on February 18, 2014, PO Altilio was on patrol with Lt. Worobey and PO Wesh. He noticed a vehicle parked in a no-standing zone outside of 1128 Eastern Parkway, in Brooklyn. While PO Altilio wrote out a parking summons, the vehicle's owner, § 87(2)(b) came out of a nearby restaurant to complain. § 87(2)(b) spoke to Lt. Worobey and PO Wesh while PO Altilio wrote the summons. § 87(2)(b) was visibly upset at the time. PO Altilio, PO Wesh and Lt. Worobey resumed patrol once the summons was issued.

At approximately 8:00 p.m., PO Altilio and his partners returned to the 71st Precinct stationhouse so Lt. Worobey could check his email. When they walked into the stationhouse lobby, PO Altilio observed § 87(2)(b) speaking to Sgt. Meyers, the desk officer. He did not recall if there were any other civilians or officers in the lobby at the time. PO Altilio did not recall what § 87(2)(b) and Sgt. Meyers were speaking about, and did not recall what § 87(2)(b)'s demeanor was at the time. Neither PO Altilio nor either of his partners spoke to § 87(2)(b) at that time. Lt. Worobey went to the offices upstairs, while PO Altilio and PO Wesh entered the restrooms located next to the lobby.

When PO Altilio exited the restroom about five minutes later, he noted that § 87(2)(b) was no longer in the lobby. He heard several voices shouting outside of the stationhouse. PO Altilio could not tell who was shouting, or what they were saying. When PO Altilio went outside to investigate, he saw several officers standing by § 87(2)(b) in front of the stationhouse entrance. PO Altilio did not recall who these officers were. PO Altilio did not know why § 87(2)(b) had left the stationhouse, or why the gathered officers had approached him. He did not recall if there were any other civilians outside at the time.

§ 87(2)(b) was acting in an irate manner. He waved his arms at his side and shouted at the officers around them, demanding both that they leave him alone, and that they fight him. One of the officers asked § 87(2)(b) for his identification. PO Altilio did not know why this officer was asking § 87(2)(b) for identification. § 87(2)(b) refused to provide his identification, and started walking towards his car, which was parked approximately one hundred feet down the street from the stationhouse entrance. The officers followed him to the car, but did not initially make any physical contact. PO Altilio did not hear any of the officers tell § 87(2)(b) "Get out of the fucking building," or, "Get the fucking ID." He did not hear any officers use profanity at any point.

PO Altilio walked over to the car to see what was happening. As he approached, however, the gathered officers started struggling with § 87(2)(b) in an effort to handcuff him. PO Altilio did not know why § 87(2)(b) was being handcuffed at that point. He did not recall seeing § 87(2)(b) enter the car before the struggle began. § 87(2)(b) continued shouting and flailing his arms during the struggle. He did not recall what specific actions the gathered officers took towards § 87(2)(b) at that time. Right before PO Altilio reached the car, he saw § 87(2)(b) fall to the ground. PO Altilio did not recall if § 87(2)(b) fell to the ground accidentally, or if he was deliberately brought down by the officers. § 87(2)(b) continued shouting and flailing his arms while on the ground. At least one officer ordered § 87(2)(b) to stop resisting.

Once § 87(2)(b) went to the ground, PO Altilio joined in the struggle. At about this time, PO Wesh came out of the stationhouse as well and joined in the struggle. PO Altilio did not recall the names of any of the other officers who struggled with § 87(2)(b) on the ground. PO Altilio, PO Wesh and the other officers grabbed § 87(2)(b)'s arms and pulled them behind his back. PO Altilio did not see any officers punch or kick § 87(2)(b), grind § 87(2)(b)'s face against the ground, or place him in a chokehold. He did not see any officer make contact with § 87(2)(b)'s neck. He did not hear § 87(2)(b) complain of having any difficulty breathing, or hear any officer tell § 87(2)(b) "If you can say you can't breathe, you can breathe."

After several minutes, PO Altilio, PO Wesh and the other officers were able to get § 87(2)(b) into handcuffs. During the struggle, § 87(2)(b) suffered an abrasion to his face. No officers were injured. § 87(2)(b) did not offer any active resistance after his handcuffing, but passively resisted by refusing to walk into the stationhouse. As a result, officers had to carry him inside. There, § 87(2)(b) was placed in a holding cell. PO Altilio did not recall who took § 87(2)(b) to the holding cells, or if there were any other prisoners inside. PO Altilio did not see any officer remove § 87(2)(b)'s pants or other articles of clothing.

Once § 87(2)(b) was lodged in the cell, Lt. Worobey informed PO Altilio that he would be treated as an EDP, rather than as a prisoner. PO Altilio was not aware of Lt. Worobey having any involvement with § 87(2)(b) before that point. While there had been no prior discussion of § 87(2)(b)'s mental state before then, PO Altilio felt, based on § 87(2)(b)'s irrational and aggressive manner, that he might be emotionally disturbed. § 87(2)(b) was taken by EMS to § 87(2)(b) for evaluation. PO Altilio drove § 87(2)(b)'s car behind the ambulance and parked it at the hospital so that § 87(2)(b) would have access to it upon discharge. PO Altilio returned to the stationhouse after parking the car.

Witness Officer: PO WEBER WESH

- *PO Wesh, § 87(2)(b) old at the time of the incident, is a 5'10", 210-pound black male with black hair and brown eyes. He does not wear glasses.*
- *On February 18, 2014, PO Wesh worked the same tour and assignment as PO Mario Altilio.*

Memo Book

At 7:24 p.m. on February 18, 2014, PO Wesh issued a parking summons to a vehicle parked in a no-standing zone at 1128 Eastern Parkway. At 8:05 p.m., a male was taken into custody in front of the 71st Precinct stationhouse. The male had threatened several officers and pedestrians. An ambulance was called for the male. At 8:55 p.m., PO Wesh transported the male, now designated as an EDP, to § 87(2)(b) (Encl. 13A-C).

CCRB Testimony

PO Wesh was interviewed at the CCRB on August 8, 2014 (Encl. 13D-F), § 87(2)(g)

PO Wesh did not see § 87(2)(b) inside of the 71st Precinct stationhouse when he, PO Altilio and Lt. Worobey returned from patrol. He did not witness § 87(2)(b)'s initial complaint regarding the parking summons. He did not know which, if any, officer spoke to § 87(2)(b) inside of the stationhouse. He did not recall seeing any officers besides Sgt. Meyers in the stationhouse lobby.

PO Wesh was also drawn outside by the sound of shouting by the stationhouse entrance. When he went outside to investigate, he identified the officers who were speaking to § 87(2)(b) as PO Boyle, PO D'Amico and PO Rossomando. A fourth officer was with them, but PO Wesh did not recall this officer's name. At the time, § 87(2)(b) was acting in an agitated fashion, and was shouting profanities at the four officers. PO Wesh did not recall what § 87(2)(b) was saying. He did not mention § 87(2)(b) demanding to fight any of the officers. PO Wesh did not know why officers had approached § 87(2)(b) but did recall that one of the officers asked § 87(2)(b) to produce identification. He did not hear any officers tell § 87(2)(b) "Get the fuck out of the building," or, "Get the fucking ID right now." He did not hear any officers use profanity during the incident.

§ 87(2)(b) entered his car, sitting in the driver's seat with the door left open. § 87(2)(b) opened the glove compartment, but PO Wesh did not recall him removing any objects from it. § 87(2)(b) continued shouting profanities towards the officers while he was in the car. PO Wesh walked up to the car to see what was happening. Several other officers from inside of the stationhouse came outside and approached the car at that time as well. PO Wesh only specifically recalled seeing PO Altilio and Sgt. Meyers among these officers. He did not see Lt. Worobey outside at any point.

Shortly after opening the glove compartment, § 87(2)(b) stepped out of his car and stood up. No officer forcibly removed him from the vehicle. PO Wesh did not recall if § 87(2)(b) had been instructed to exit the vehicle. One of the original four officers told § 87(2)(b) to place his hands behind his back for handcuffing. He then reached out and grabbed one of § 87(2)(b)'s arms. PO Wesh did not know why § 87(2)(b) was being handcuffed at that time. § 87(2)(b) however, reacted by pulling his arm away.

Once § 87(2)(b) pulled away, several officers, including PO Wesh, PO Altilio, Sgt. Meyers, PO Boyle, PO D'Amico and PO Rossomando grabbed § 87(2)(b) by his arms and attempted to pull them behind his back. § 87(2)(b) responded by flailing his arms at his side. He continued shouting at the officers. The officers around § 87(2)(b) repeatedly told him to stop resisting and to place his arms behind his back.

During this struggle, § 87(2)(b) and several officers fell to the ground. They fell to the ground by accident, rather than due to the deliberate actions of either § 87(2)(b) or the officers. Several officers, PO Wesh included, fell directly on top of § 87(2)(b). § 87(2)(b) continued flailing his arms while on the ground. He also began kicking out at the officers and spitting at them. PO Wesh was kicked once on his leg, but he was not injured by this. He did not see if § 87(2)(b)

§ 87(2)(b) managed to strike or spit on any of the other officers. PO Wesh grabbed § 87(2)(b)'s legs and held them down. Other officers attempted to hold down § 87(2)(b)'s arms and torso. PO Wesh, however, was focused on the legs, and did not observe what the officers by § 87(2)(b)'s torso were doing.

PO Wesh did not see any officers punch or kick § 87(2)(b) or grind his face against the ground. He did not see any officer place § 87(2)(b) in a chokehold, or otherwise make contact with his neck. PO Wesh did not hear § 87(2)(b) complain of having difficulty breathing. No officer told § 87(2)(b) "If you can say you can't breathe, you can breathe." Beyond grabbing at limbs, PO Wesh did not observe any additional force used against § 87(2)(b).

After he was finally handcuffed, PO Wesh noted that § 87(2)(b) had suffered an abrasion to his forehead during the struggle. § 87(2)(b) was subsequently carried into the stationhouse and placed in a holding cell. PO Wesh did not recall if any other prisoners were present at the time. He did not see any officers remove § 87(2)(b)'s pants or any other articles of clothing. Eventually, Lt. Worobey decided to label § 87(2)(b) as an EDP, and had him transported by EMS to § 87(2)(b). PO Wesh rode with § 87(2)(b) but did not recall what, if any, treatment he received at the hospital.

Witness Officer: PO PAUL MALLILO

- PO Mallilo, § 87(2)(b) old at the time of the incident, is a 5'10", 285-pound white male with brown hair and brown eyes. He does not wear glasses.
- PO Mallilo worked from 5:30 p.m. on February 18, 2014 until 2:05 a.m. on February 19, 2014. He was assigned to SNEU, and worked with PO Ryan Norwood. PO Mallilo was in uniform, and assigned to marked RMP #3397.

Memo Book

At 7:50 p.m. on February 18, 2014, PO Mallilo left the 71st Precinct stationhouse to return to his vehicle. As he walked out, he noticed several officers struggling with a male. The male attempted to escape the officers by jumping over a car. The male was forcibly taken to the ground and placed in handcuffs. The male suffered a cut to his forehead as a result of the struggle. EMS was summoned for the male. He was subsequently transported to § 87(2)(b) as an EDP (Encl. 14A-C).

CCRB Testimony

PO Mallilo was interviewed at the CCRB on August 13, 2014 (Encl. 14D-F). § 87(2)(g)

PO Mallilo and his partner, PO Norwood, were not involved in the issuance of § 87(2)(b)'s parking summons. At approximately 8:00 p.m., both officers were preparing to leave the 71st Precinct stationhouse to go out on patrol. PO Mallilo left the stationhouse first by himself. Outside, he noticed a group of four or five officers struggling with an individual identified by the investigation as § 87(2)(b). PO Mallilo did not know why the officers were struggling with § 87(2)(b) and had not witnessed any prior interactions between § 87(2)(b) and the officers. He did not witness § 87(2)(b) enter the stationhouse to complain about the summons, or the officers attempting to obtain § 87(2)(b)'s identification from him. He did not hear any officers use any profanity at any point during the incident.

When PO Mallilo first observed § 87(2)(b) and the officers, he saw § 87(2)(b) attempt to get away from the officers by climbing over the top of a parked car. The officers responded by grabbing his arms and pulling him down to the ground. Neither § 87(2)(b) nor the officers said anything at that time. § 87(2)(b) landed face-down on the ground.

While on the ground, § 87(2)(b) began twisting his body and pulling his limbs away from the officers. He also shouted several unspecified profanities at the officers around him. At that time, PO Mallilo and several other officers who had heard the commotion from inside the stationhouse ran up to § 87(2)(b) to assist in restraining him. PO Norwood was not among these officers. PO Mallilo stood over § 87(2)(b)'s head and held him down by his shoulders. Other officers grabbed § 87(2)(b)'s arms and legs to hold him still while his handcuffs were applied. The gathered officers told § 87(2)(b) repeatedly to stop resisting.

No officer punched or kicked § 87(2)(b) during the struggle, or ground his head against the ground. No officer placed § 87(2)(b) in a chokehold, or made any kind of contact with his neck. PO Mallilo did not hear § 87(2)(b) complaining of having any difficulty breathing. No officer told § 87(2)(b) "If you can say you can't breathe, you can breathe."

The officers managed to get § 87(2)(b) in handcuffs after about a minute of struggle. § 87(2)(b) suffered a cut to his forehead during the struggle. While § 87(2)(b) tried to jerk his body away from the officers who then escorted him inside, he walked into the stationhouse on his own power, and did not have to be carried. PO Mallilo did not recall § 87(2)(b) kicking any officers while being transported. PO Mallilo walked alongside § 87(2)(b) up to the stationhouse's front desk, but did not follow him any further. § 87(2)(b) was taken into the holding cells afterwards, but PO Mallilo did not see what, if anything happened to him in there. PO Mallilo did not see any officers remove any clothing from § 87(2)(b) at that time.

After being lodged in the holding cells, an ambulance was called for § 87(2)(b). He was subsequently taken to § 87(2)(b) as an EDP. PO Mallilo did not know who made the decision to classify § 87(2)(b) as an EDP. PO Mallilo did not accompany § 87(2)(b) to the hospital, and instead resumed patrol immediately after the incident with PO Norwood.

Witness Officer: PO RYAN NORWOOD

- *PO Norwood, § 87(2)(b) old at the time of the incident, is a 6', 205-pound white male with brown hair and green eyes. He does not wear glasses.*
- *On February 18, 2014, PO Norwood worked the same tour and assignment as PO Mallilo.*

Complaint Report #2014-071-03572

PO Norwood was unable to provide a copy of his memo book entries during an interview. During a struggle with a perpetrator on May 27, 2014, PO Norwood lost the memo book containing his entries from February 18, 2014. The loss of the memo book was documented in a complaint report (Encl. 15A-C).

CCRB Testimony

PO Norwood was interviewed at the CCRB on October 10, 2014 (Encl. 15D-F). § 87(2)(g)

§ 87(2)(g)

At approximately 8:00 p.m. on February 18, 2014, PO Norwood and PO Mallilo returned from patrol to the 71st Precinct stationhouse to perform administrative duties. When PO Norwood entered the stationhouse, he noticed a civilian, identified by the investigation as § 87(2)(b) shouting at PO Boyle and another officer by the front desk. He did not recall if any other officers were present at the time, and did not recall what § 87(2)(b) was saying. PO Norwood and PO Mallilo stayed by the desk for several minutes while they were completing paperwork. Neither officer interacted with § 87(2)(b) during that time. Eventually, § 87(2)(b) left the stationhouse. PO Norwood did not recall how his interaction with PO Boyle had ended, or whether he left voluntarily. PO Norwood did not hear any officer tell § 87(2)(b) “Get the fuck out of the building,” or otherwise order him out at that time.

Several minutes later, after completing their paperwork, PO Norwood and PO Mallilo exited the stationhouse in order to resume patrol. Once outside, PO Norwood saw § 87(2)(b) speaking with PO Boyle and the other officer. § 87(2)(b) was sitting in the driver’s seat. PO Norwood did not recall if the car door was open or if the window was rolled down. He did not know what had happened between § 87(2)(b) prior to § 87(2)(b) entering the vehicle. One of the two officers asked § 87(2)(b) for his identification, but PO Norwood did not know why they were doing so. He did not recall hearing any officer tell § 87(2)(b) “Get the fucking ID,” or otherwise use profanity towards him. At the time, § 87(2)(b) was still irate and shouting at the officers. While PO Norwood did not recall what § 87(2)(b) was saying, he stated that § 87(2)(b) refused to provide identification. PO Norwood did not recall if he was making any movements inside of the car. PO Norwood and PO Mallilo walked up to the car to see if PO Boyle and the other officer needed assistance. He did not recall if any additional officers joined them.

The officers repeated their request for identification, but were met with more shouting from § 87(2)(b). After several minutes, one of the officers asked § 87(2)(b) to exit his vehicle. PO Norwood did not know why the officer made this request. § 87(2)(b) exited the car, but PO Norwood did not recall if he stepped out himself or was forced out by the officers. Now on his feet, § 87(2)(b) began flailing his arms at his side. He also attempted to climb over his car to evade the officers. The gathered officers stopped § 87(2)(b) by grabbing his arms and pulling him back down. They then brought § 87(2)(b) to the ground. PO Norwood did not recall the exact means by which the officers took § 87(2)(b) down, but stated that he landed face-down. § 87(2)(b) continued flailing his arms at his side while on the ground. The gathered officers then restrained him by pulling his arms behind his back. PO Norwood denied being part of this struggle, stating that he himself did not touch § 87(2)(b) at any point. He did not recall what, if any, specific actions that PO Mallilo or PO Boyle took.

PO Norwood did not see any officers punch or kick § 87(2)(b) or grind his face into the ground. He did not see any officer place § 87(2)(b) in a chokehold, or otherwise make contact with his neck. PO Norwood did not recall hearing § 87(2)(b) complain of having trouble breathing, or any officers telling § 87(2)(b) “If you can say you can’t breathe, you can breathe.” PO Norwood did not recall seeing officers use any force beyond taking § 87(2)(b) to the ground and pulling his arms behind his back.

After § 87(2)(b) was finally restrained, PO Norwood saw that he had suffered several abrasions to his face during the struggle. He did not recall if § 87(2)(b) was compliant when he was taken into the stationhouse, or if he attempted to kick any officers. PO Norwood did not

recall if § 87(2)(b) was placed in a holding cell after he was restrained. He did not recall seeing any officer remove any articles of clothing from § 87(2)(b) while in the holding cells. PO Norwood did not have any further interactions with § 87(2)(b) after he was taken into the stationhouse, and did not know if he received any medical treatment, or was classified as an EDP. PO Norwood and PO Mallilo resumed patrol shortly after § 87(2)(b) was taken into custody.

Witness Officer: PO ISMAEL RIVERA

- *PO Rivera, § 87(2)(b) old at the time of the incident, is a 5'9", 195-pound Hispanic male with brown hair and brown eyes. He does not wear glasses.*
- *On February 18, 2014, PO Rivera worked from 3:00 p.m. until 11:35 p.m. He was initially assigned to sectors F and J with PO Philip Rossomando, but at 7:30 p.m., he was reassigned as the telephone switchboard (TS) operator. PO Rivera was in uniform.*

Memo Book

PO Rivera did not have any memo book entries regarding the incident. § 87(2)(g)
§ 87(2)(g) (Encl. 16A-C).

CCRB Testimony

PO Rivera was interviewed at the CCRB on July 18, 2014 (Encl. 16D-F). § 87(2)(g)
§ 87(2)(g)

At approximately 8:00 p.m. on February 18, 2014, PO Rivera was working as the TS operator at the 71st Precinct stationhouse. He was positioned behind the front desk and worked alongside the desk officer, Sgt. Meyers. At the time, PO Boyle, PO D'Amico and PO Rossomando were standing by the front desk. § 87(2)(b) entered the stationhouse and approached the front desk to complain about a parking summons he had just received. As the TS operator's seat is closest to the front door, § 87(2)(b) initially approached and spoke to PO Rivera. PO Rivera attempted to explain how § 87(2)(b) could dispose of the summons. After only a few moments, however, PO Boyle stepped in and offered to address § 87(2)(b)'s complaint himself. PO Boyle and § 87(2)(b) stepped several feet away from the desk and spoke to each other for several minutes. PO Rivera returned to his duties, and did not hear what they were saying.

After several minutes, PO Rivera heard Sgt. Meyers tell § 87(2)(b) to leave the stationhouse. When he looked up, he noted that § 87(2)(b) was shouting at PO Boyle, PO D'Amico and PO Rossomando. He did not recall what § 87(2)(b) was saying. Sgt. Meyers repeated the command several times. PO Rivera did not recall § 87(2)(b)'s response. Eventually, § 87(2)(b) left the stationhouse, but PO Rivera did not recall if he left on his own or had to be forced out. PO Rivera did not hear any officer tell § 87(2)(b) "Get the fuck out of the building," or, "Give me the fucking ID." He did not hear any officers use profanity at any point.

When § 87(2)(b) left, PO Rivera again returned to his duties behind the desk. As he worked, he noticed several Impact officers, identified by the investigation as PO Altilio and PO Wesh, leave the stationhouse, but he did not know where they were going. He did not mention hearing any noises outside of the stationhouse.

Several minutes later, a group of unidentified officers escorted § 87(2)(b) back into the stationhouse in handcuffs. PO Rivera did not know who they were, or why they had restrained

§ 87(2)(b) He had not witnessed how they took § 87(2)(b) into custody. PO Rivera did not know if § 87(2)(b) was under arrest or in protective custody, or if § 87(2)(b) was injured at that time.

PO Rivera had been inside when § 87(2)(b) was taken into custody. As such, he did not see what, if any, force had been used against § 87(2)(b). He did not hear § 87(2)(b) complain of having difficulty breathing.

§ 87(2)(b) was immediately taken into the rear of the stationhouse, towards the holding cells. PO Rivera did not recall if he was compliant at the time. He did not know what happened to § 87(2)(b) once he was placed in the holding cells. He did not see any officers search § 87(2)(b) or remove any articles of clothing. He did not know if § 87(2)(b) received any medical treatment at any point. PO Rivera had no further interaction with § 87(2)(b) after that time.

Witness Officer: LT. ERIK WOROBNEY

- *Lt. Worobney, § 87(2)(b) old at the time of the incident, is a 5'9", 160-pound white male with brown hair and blue eyes. He does not wear glasses.*
- *Lt. Worobney worked from 4:00 p.m. on February 18, 2014 until 2:30 a.m. on February 19, 2014. He was assigned as the Impact supervisor for the 71st Precinct. While he did not have an operator, he worked directly with PO Weber Wesh and PO Mario Altilio. Lt. Worobney was in uniform.*

Memo Book

At 7:30 p.m. on February 18, 2014, Lt. Worobney issued a summons for parking in a no-standing zone at 1128 Eastern Parkway. At 8:00 p.m., Lt. Worobney traveled to the 71st Precinct stationhouse, where a violent male had been restrained. Lt. Worobney contacted EMS and had the male transported to § 87(2)(b). At 9:00 p.m., Lt. Worobney traveled to § 87(2)(b) where he provided both his name and the CCRB's telephone number to the male. He then prepared an AIDED worksheet for the male. At 11:00 p.m., Lt. Worobney returned to the hospital once again to speak to IAB in regards to the male, now identified as § 87(2)(b). At 2:05 a.m. on February 19, 2014, Lt. Worobney attempted to speak to § 87(2)(b)'s physician, but was unable to do so due to confidentiality issues (Encl. 17A-D).

AIDED Worksheet #§ 87(2)(b)

Lt. Worobney prepared an AIDED worksheet for § 87(2)(b). At § 87(2)(b) § 87(2)(b) was transported from the 71st Precinct stationhouse to § 87(2)(b). The narrative states that § 87(2)(b) was removed to the hospital after a "violent incident" (Encl. 17E-I).

CCRB Testimony

Lt. Worobney was interviewed at the CCRB on June 3, 2014 (Encl. 17J-L). § 87(2)(g)

Lt. Worobney did not recall seeing § 87(2)(b) when he initially returned to the stationhouse. He was not present when § 87(2)(b) first came inside to complain about his summons, and did not witness his interaction with the officers in the lobby.

While Lt. Worobey did hear shouting coming from outside of the stationhouse, he did not initially go to investigate it, stating that noise commonly filters in from the outside due to the busy nature of the nearby intersection. He did not leave the stationhouse again until several minutes after first hearing the shouting. When Lt. Worobey went outside, he saw that § 87(2)(b) was already in handcuffs. PO D'Amico and PO Rossomando were standing with him near a parked car. PO Wesh and PO Altilio were also standing outside at the time. § 87(2)(b) had several scrapes on his forehead. Lt. Worobey denied having seen § 87(2)(b) since his parking summons had been issued at 1128 Eastern Parkway.

Lt. Worobey did not witness any interactions between § 87(2)(b) and the police leading up to his handcuffing. He did not know why the officers had restrained § 87(2)(b) or what, if any, actions they had taken to get him in the handcuffs. He did not see any officers punch or kick § 87(2)(b) or grind his face against the ground. He did not see any officers place § 87(2)(b) in a chokehold, or otherwise make contact with his neck.

The officers escorted § 87(2)(b) into the stationhouse and placed him in a temporary lodging area, separate from the holding cells. PO D'Amico and PO Rossomando then explained to Lt. Worobey what had happened. § 87(2)(g) Lt. Worobey then entered the lodging area to speak to § 87(2)(b) directly. At the time, § 87(2)(b) was still agitated and shouting loudly. § 87(2)(b) told Lt. Worobey, "I'm going to hook a nigger." Lt. Worobey took this to mean that § 87(2)(b) wanted to punch him. He also felt that the extreme hostility § 87(2)(b) was showing in response to a simple parking ticket indicated that he might be emotionally disturbed. As such, he contacted EMS to have § 87(2)(b) transported to the hospital. Lt. Worobey felt that § 87(2)(b)'s behavior, both in the lodging area and outside the stationhouse (as described by PO D'Amico and PO Rossomando), constituted disorderly conduct, and that he could have had § 87(2)(b) arrested. Given his concerns for § 87(2)(b)'s mental health, however, he decided that it would be best to have him hospitalized instead of imprisoned. EMS responded several minutes later, and took § 87(2)(b) to § 87(2)(b). Lt. Worobey rode with him in the ambulance.

§ 87(2)(b) was not placed in the holding cells at any point. Lt. Worobey did not see any officers remove any articles of clothing from § 87(2)(b) or grab his crotch. He was not aware of § 87(2)(b) being searched in any way before being taken to the hospital. At the hospital, Lt. Worobey provided his name and the CCRB's telephone number to § 87(2)(b). He then left the hospital. He had no further interaction with § 87(2)(b) after that point.

Medical Records

§ 87(2)(b) Records

At § 87(2)(b), § 87(2)(b) arrived at § 87(2)(b). He was in police custody at the time. § 87(2)(b) complained of pain to his forehead, nose and throat. He had abrasions on his forehead, and his nose was bleeding. An X-ray of § 87(2)(b)'s neck and a CT scan of his face revealed no further injuries. § 87(2)(b) displayed no swelling or tenderness around his neck. He was subsequently released into his own care at § 87(2)(b) (Encl. 18A).

§ 87(2)(b) Records

At § 87(2)(b), § 87(2)(b) was transported from his home at § 87(2)(b) in Brooklyn, to § 87(2)(b). He complained of generalized body ache, as well as pain in his head, neck and knees. He had multiple abrasions on his forehead and knees. Further X-rays and CT scans revealed no further injuries. § 87(2)(b) was given Motrin for his pain and then discharged at § 87(2)(b) (Encl. 18B).

NYPD Document(s)

IAB Callout

Sgt. Scott Reiser of IAB Group 54 conducted an initial callout investigation into § 87(2)(b)'s complaints. A canvass for video evidence on February 21, 2014 found that none of the cameras on the buildings surrounding the 71st Precinct stationhouse recorded the incident. When it was determined that § 87(2)(b) did not suffer any broken bones, or receive any stitches as a result of the incident, the callout was concluded, and the case was referred to the CCRB (Encl. 20M-BH).

SPRINT #D14021820970

At 7:57 p.m. on February 18, 2014, a unit identifying itself as "71 Base" requested that an ambulance respond to the 71st Precinct stationhouse to treat "an injured perp." No further units are listed (Encl. 20BO-BS).

71st Precinct Roll Call

During tour 3 on February 18, 2014, Lt. Worobey was assigned as the Impact lieutenant, with PO Atilio and PO Wesh listed as his operators. Sgt. Meyers was assigned as the desk officer. PO Boyle and PO D'Amico were assigned to sectors F and J, PO Rossomando and PO Rivera were assigned to Conditions, and PO Mallillo and PO Norwood were assigned to SNEU. PO Larry Taylor was assigned as the community affairs officer, and PO Thomas Demark was assigned as the auxiliary coordinator (Encl. 20BV-CF).

MOS Photographs

PO Taylor, § 87(2)(b) old at the time of the incident, is a 5'11", 300-pound black male with black hair. PO Demark, § 87(2)(b) old at the time of the incident, is a 6'3", 255-pound white male with salt-and-pepper hair. Neither wears glasses (Encl. 20K-L).

71st Precinct Command Log

At 8:00 p.m., Sgt. Meyers made an entry in the command log regarding the incident. He initially placed an arrest stamp, but subsequently crossed it out, writing his shield number over it. Underneath, he wrote in that § 87(2)(b) an EDP, had entered the stationhouse. EMS was called to the location to treat a cut on § 87(2)(b)'s forehead. At 8:50 p.m., § 87(2)(b) was taken to § 87(2)(b) in handcuffs and leg shackles by EMS, with PO Atilio and PO Wesh escorting him. § 87(2)(b) made no allegations against any officer while at the stationhouse. No mention is made of a strip-search being conducted on § 87(2)(b) (Encl. 20CG-CM).

71st Precinct Interrupted Patrol Log

The interrupted patrol log does not list any patrol units returning to the 71st Precinct stationhouse between 7:05 p.m. and 8:50 p.m. on February 18, 2014 (Encl. 20CN).

71st Precinct Prisoner Holding Pen Roster

At approximately 8:00 p.m. on February 18, 2014, the prisoner holding pen roster lists two prisoners, § 87(2)(b) and § 87(2)(b) being held in the 71st Precinct stationhouse's holding cells (Encl. 20CO-CQ).

Other Evidence

Attempts to Obtain Video Evidence

Fieldwork was conducted at the incident location on February 24, 2014. The undersigned investigator visited several adjacent locations, including a Mobil gas station at 145 Empire Boulevard, an apartment building at 436 Empire Boulevard, and the Gladstone Atwell Middle School at 360 Empire Boulevard. No camera footage of the incident was found at any of these locations.

Status of Civil Proceedings

- § 87(2)(b) filed a notice of claim with the City of New York on § 87(2)(b), claiming personal injury, false arrest, unlawful imprisonment and harassment, and seeking \$1,000,000 as redress (Encl. 7I-L).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

Civilian(s) CCRB History

- § 87(2)(b) filed the following CCRB complaint (Encl. 3A):
 - § 87(2)(b) [REDACTED]
[REDACTED] [REDACTED]
[REDACTED].

Subject Officer(s) CCRB History

- PO Phillip Rossomando has been a member of the service for one year and there are no substantiated CCRB allegations against him. This is the first complaint filed against PO Rossomando (Encl. 3B).
- PO Stephen D'Amico has been a member of the service for two years and there are no substantiated CCRB allegations against him (Encl. 3C).
- PO Elijah Boyle has been a member of the service for three years and there are no substantiated CCRB allegations against him (Encl. 3D).

Conclusion

Identification of Subject Officer(s)

- § 87(2)(b) alleged that a heavyset bald 5'9" white male in his late twenties to early thirties used profanity against him inside of and outside of the stationhouse, participated in his stop outside of the stationhouse, and later pulled his pants down in the stationhouse holding cell. He further stated that this officer was one of the officers who approached him by the front desk. The officers interviewed consistently identified PO Boyle, PO Rossomando and PO D'Amico as the three officers who spoke to § 87(2)(b) by the front desk. None of these officers are bald. PO Boyle, however, stated that PO D'Amico used profanity against § 87(2)(b). PO D'Amico also confirmed that he was one of the officers who dealt with § 87(2)(b) inside of the stationhouse and later stopped him outside of the stationhouse. § 87(2)(g)

- § 87(2)(b) alleged that he was stopped by a group of eight to ten officers outside of the stationhouse. This group included the officers he spoke to next to the front desk, as well as the white male officer who had written his parking summons. PO D'Amico has already been identified as one of these officers. PO Boyle and PO Rossomando both stated that they participated in § 87(2)(b)'s stop. § 87(2)(b)'s summons was issued by PO Altilio, who is a white male.

In contrast, the officers interviewed consistently stated that PO Boyle, PO D'Amico and PO Rossomando were the officers who initially stopped § 87(2)(b) outside of the stationhouse. The remaining officers, including PO Altilio, stated that they only arrived after the stop had already been effected. Given § 87(2)(b)'s difficulties in providing details about the other officers who stopped him and the officers' consistency across statements, the preponderance of the evidence indicates that § 87(2)(b) was only initially stopped by PO D'Amico, PO Boyle, and PO Rossomando, rather than by a larger group. § 87(2)(g)

- § 87(2)(b) alleged that a heavyset blond 6'1" white male with glasses placed him in a chokehold and forced his face against the ground. He stated that this officer had not been present either at the issuance of the summons or during his initial interaction by the front desk. He did not provide this officer's name or shield number.

§ 87(2)(g) At other points during the incident, § 87(2)(b) gave inaccurate descriptions of other officers he interacted with. He described both officers he observed behind the front desk as being black males, even though police testimony and documentation clearly identified them as

a white male and a Hispanic male. He additionally described PO D’Amico as being bald, despite him having brown hair. § 87(2)(b) also failed to appear for two separate photo viewing sessions without calling ahead to cancel or reschedule.

None of the officers interviewed are blond or wear glasses, and none of them recalled seeing an officer either choking § 87(2)(b) or slamming § 87(2)(b)’s head against the ground. The investigation was unable to identify any further officers who might have been involved in the incident. No officers recalled any additional officers beyond those already interviewed, and no additional units were listed as being present in the SPRINT or the interrupted patrol log. A review of stationhouse assignments in the roll call yielded two additional officers beyond those already identified: PO Taylor, the community affairs officer, and PO Demark, the auxiliary coordinator. Neither officer matches § 87(2)(b)’s description of the subject officer. Neither was named by any of the officers who were present.

§ 87(2)(g)

Allegations Not Pleaded

- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Discourtesy – Inside of the 71st Precinct stationhouse, PO Stephen D’Amico spoke discourteously towards § 87(2)(b)

§ 87(2)(b) alleged that while he was inside of the stationhouse, PO D’Amico told him, “Get the fuck out of the building.” None of the officers interviewed recalled hearing any officer either make this statement or otherwise use profanity against § 87(2)(b) inside of the stationhouse.

§ 87(2)(g)

Allegation B: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Stephen D’Amico stopped § 87(2)(b)

Allegation C: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Elijah Boyle stopped § 87(2)(b)

Allegation D: Abuse of Authority – Outside of the 71st Precinct stationhouse, PO Phillip Rossomando stopped § 87(2)(b)

It is undisputed that § 87(2)(b) was stopped after leaving the 71st Precinct stationhouse. § 87(2)(b) Before the stop, § 87(2)(b) denied having taken any kind of disruptive or provocative action towards the officers, and stated that he maintained a calm and cooperative demeanor throughout the encounter. PO Boyle, PO D’Amico, PO Rossomando all stated that § 87(2)(b) was acting in a loud and disruptive manner

throughout the incident, and that he became belligerent and demanded to fight them when they followed him outside. Sgt. Meyers further alleged that § 87(2)(b) explicitly threatened to strike the officers.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

An officer requires a reasonable suspicion that an individual is, has been, or is about to be involved in a criminal act in order to stop them. People v. DeBour, 40 N.Y.2d 210 (1976) (Encl. 2A-K). Under §240.20 of the New York Penal Law, an individual that causes public alarm through unreasonable noise or violent, threatening behavior is guilty of disorderly conduct (Encl. 2L).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation E: Discourtesy – Outside of the 71st Precinct stationhouse, PO Stephen D’Amico spoke discourteously towards § 87(2)(b)

§ 87(2)(b) alleged that after going to his car to retrieve his identification, PO D’Amico told him, “Get the fucking ID right now.” All of the officers interviewed denied hearing this statement, save for PO Boyle, who corroborated § 87(2)(b)’s allegation. § 87(2)(g)

An officer is empowered to use limited profanity in order to gain control of a stressful street encounter. PD v. White, OATH Index 78667/03 (2004) (Encl. 2S-V).

§ 87(2)(g)

Allegation F: Force – Outside of the 71st Precinct stationhouse, an officer used a chokehold against § 87(2)(b)

Allegation G: Force – Outside of the 71st Precinct stationhouse, an officer used physical force against § 87(2)(b)

§ 87(2)(b) alleged that a heavyset blond 6’1” white male officer wearing glasses wrapped his arm around § 87(2)(b)’s neck, restricting his breathing. § 87(2)(b) stated that when he tried to tell the officers around him that he could not breathe, he was told, “If you can say you can’t breathe, you can breathe.” When treated at § 87(2)(b) later that evening, § 87(2)(b) complained of pain in his throat, stating that he had been choked. § 87(2)(b) further alleged that this officer ground his face against the ground. § 87(2)(b)’s medical records indicate that he had abrasions on his face, but no visible injuries on his neck.

None of the officers interviewed recalled seeing any other officer take these actions during the struggle with § 87(2)(b). While none of the officers saw another officer wrap an arm around § 87(2)(b)’s neck or otherwise make contact with his neck, PO Boyle and PO D’Amico both heard § 87(2)(b) stating that he could not breathe during the incident. PO Boyle stated that § 87(2)(b) made this comment during the struggle. PO Boyle stated that he had his arm around § 87(2)(b)’s torso at the time and that other officers were pulling § 87(2)(b)’s arms behind his back. He denied that any officer was making contact with § 87(2)(b)’s neck when the complaint was made. PO D’Amico stated that § 87(2)(b) complained of having difficulty breathing after the struggle, when he was placed in handcuffs. No officers were making any contact with him at the time. The officers responded by immediately lifting § 87(2)(b) to his feet.

§ 87(2)(g)

§ 87(2)(g)

Allegation H: Abuse of Authority – Inside of the 71st Precinct stationhouse, PO Stephen D’Amico strip-searched § 87(2)(b)

§ 87(2)(b) alleged that when he was brought into the holding cell area, PO D’Amico pulled down his pants, exposing his underwear. PO D’Amico and the other officers all denied seeing any articles of clothing being removed from § 87(2)(b) at any point. Statements could not be obtained regarding these allegations from § 87(2)(b) or § 87(2)(b) the two prisoners in the holding cells at the time. There is no mention in the command log of § 87(2)(b) being strip-searched at any point. § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date